

### **Remarks**

This response addresses the Office Action dated October 17, 2007. In the Office Action, Applicant's Claim 4 was objected to for an informality. Applicant's Claims 1-8, 11-14, 17-19, 21, 23 and 24 were rejected under 35 U.S.C. § 112, first and second paragraphs. Applicant's Claims 1-8, 11-14, 17-19, 21, 23 and 24 were rejected as obvious over the combination of U.S. Pat. No. 6,463,385 ("Fry") and the Examiner's official notice as well as Fry and U.S. Pat. No. 6,080,063 ("Khosla"). This response addresses all these rejections. Reconsideration of the present application is respectfully requested.

#### **I. Claim 4.**

As stated above, the Office Action included an objection to Applicant's Claim 4 and suggested that the word "*participants*" be included to describe "*age, gender and physical handicaps*." This response includes an amendment of Applicant's Claim 4 to include the word "*personal*" so that it is consistent with Applicant's specification, which states:

The *personal* factors to be taken into account may include age, gender, physical handicaps, and so on. [Applicant's specification, page 21, lines 22-23, emphasis added.]

Applicant submits that the objection to Claim 4 has been addressed.

#### **II. Applicant's claims satisfy 35 U.S.C. § 112, first and second paragraphs.**

In the Office Action, Applicant's Claims 1-8, 11-14, 17-19, 21, 23 and 24 were rejected under 35 U.S.C. § 112, first and second paragraphs. With this response Applicant's independent Claims 1, 21 and 24 have been cancelled thereby rendering this rejection moot.<sup>1</sup> With this response, Applicant had included new independent Claims 36, 37 and 38. Applicant submits that these new claims are fully compliant with 35 U.S.C. § 112, first and second paragraphs. As an example, support for Applicant's independent Claims 36, 37 and 38 can be found at page 5, lines 1-12; page 6, line 26-page 7, line 5;

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<sup>1</sup> To the extent permissible by law, cancellation of claims is made without prejudice or estoppel and Applicant reserves the right to present these same or similar claims in a continuation application or elsewhere where the patentability of the claims can be established.

page 7, line 21- page 8, line 12, and FIGS. 1 and 2, as well as elsewhere in the specification.

### **III. Applicant's Claims distinguish Fry and Khosla.**

In the Office Action, Applicant's Claims 1-8, 11-14, 17-19, 21, 23 and 24 were rejected as obvious over the combination of U.S. Pat. No. 6,463,385 ("Fry") and U.S. Pat. No. 6,080,063 ("Khosla"). As stated above, Applicant has cancelled independent Claims 1, 21 and 24 and added new independent Claims 36, 37 and 38. These new claims include features that are neither disclosed nor suggested by Fry and Khosla.

#### **A. New independent Claim 36**

Applicant's new Claim 36 recites the step of *"using a geographic database . . . to compare the geographic features of" a "first course to the geographic features of a second course"* where the *"first course"* and the *"second course"* are located in different *"geographic areas"* and then *"comparing"* a *"first performance"* along the *"first course"* to a *"second performance"* along the *"second course."* Finally, Applicant's Claim 36 recites the step of *"providing an indication of the comparing of the first and second performances to"* a *"participant."*

Applicant's Claim 36 is not obvious over the combination of Fry and Khosla because these references fail to disclose or suggest all the limitations of the claim. Specifically, the combination of Fry and Khosla does not disclose at least the step of *"using a geographic database . . . to compare the geographic features of" a "first course to the geographic features of a second course"* where the *"first course"* and the *"second course"* are located in different *"geographic areas"*, as recited in Claim 36.

Fry discloses using map data to superimpose a travel path of a bicycle on a map (Fry: column 6, line 64-column 7, line 12) or to allow individuals to rate performances on a particular race course (Fry: column 7, lines 56-58). However, Fry does not compare the *"geographic features"* of *"courses"* located in different *"geographic areas"* *"using a geographic database."*

Khosla discloses a system that allows persons located remotely from a live event, such as an auto race, to simulate participation in the live event (Khosla: column 2, lines

23-32). Khosla discloses using sensors located at the live event to collect data which is then used to generate a simulation for the persons located remotely, such as on their computer displays (Khosla: column 3, lines 32-50). Khosla does not disclose *"using a geographic database"* to compare *"courses"* located in different *"geographic areas."* In fact, Khosla has no disclosure whatsoever about a *"geographic database."* Therefore, Khosla fails to disclose the step of *"using a geographic database to compare the geographic features of"* a *"first course to the geographic features of a second course"*, as recited in Applicant's Claim 36.

Because neither Fry nor Khosla discloses *"using a geographic database to compare the geographic features of"* a *"first course to the geographic features of a second course"*, all the limitations of Applicant's Claim 36 are not disclosed by the combination of these references. Accordingly, Applicant's Claim 36 is not obvious over these references, even if combined.

**B. New independent Claim 37**

Applicant's independent Claim 37 relates to a *"system for facilitating performances in events"* that *"uses a geographic database to compare the geographic features of a first course located in"* a *"first geographic area to the geographic features of a second course located in"* a *"second geographic area"* and that *"indicates to a participant"* the *"results of a comparison of a first performance by the participant in an event that includes movement along the first course to a second performance along the second course."*

As explained above, neither Fry nor Khosla *"use a geographic database to compare"* the *"geographic features"* of different *"geographic areas"* In fact, Khosla does not even disclose a *"geographic database"* at all. Therefore, all the limitations of Applicant's new Claim 37 are not disclosed or suggested by these references and accordingly Claim 37 is not obvious over them.

**C. New independent Claim 38**

Applicant's independent Claim 38 relates to a *"computer-readable medium having executable instructions stored thereon"* that performs the steps of

*"using a geographic database . . . to compare the geographic features of the first course with the geographic features of a second course located in a second geographic area different from the first geographic area."* Applicant new Claim 38 distinguishes the combination of Fry and Khosla at least for the reason that neither of these references discloses or suggests *"using a geographic database to compare the geographic features of"* a *"first course to the geographic features of a second course"*, as recited in the claim. Accordingly Claim 38 is not obvious over this combination of references.

**IV. Applicant's Claims 2-8, 11-14, 17-19 and 23.**

Applicant's Claims 2-8, 11-14 and 17-19 are dependent claims that dependent directly or indirectly from new independent base Claim 36. Applicant's Claim 23 is a dependent claim that has been amended to depend from new independent base Claim 37. These dependent claims distinguish the combination of Fry and Khosla at least for the reasons explained above in connection with their respective base claims. These dependent claims include additional features that are neither disclosed nor suggested by Fry or Khosla, alone or in proper combination.

**V. Conclusion**

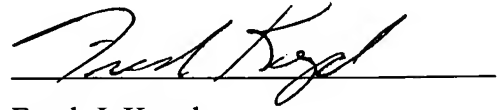
The cited art neither anticipates nor renders obvious Applicant's Claims 2-8, 11-14 and 17-19, 23 and 36-38. Thus, this application is considered to be in good and proper form for allowance, and Applicant respectfully requests that the Examiner withdraw the rejections and pass this application on to issue. If, in the opinion of the Examiner, a

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telephone conference would expedite the prosecution of this application, the Examiner is invited to call the Applicant's representative at the number given below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Frank J. Kozak", is written over a horizontal line.

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